



November 20, 2009

Laura Thielen, Chairperson
Department of Land and Natural Resources
PO Box 621
Honolulu, HI 96809

Re: The Trust for Public Land - Potential Land Acquisition Projects

Aloha Chairperson Thielen:

I am writing to provide you with more information about the Trust for Public Land (TPL) and its current projects pending before the Legacy Land Conservation Program, including Pāo'o in North Kohala on Hawai'i Island, Paukūkalo Coastal Wetlands in Wailuku on the island of Maui, and the Fong Plantation Conservation Easement in Ka'alaea on O'ahu. TPL provides this type of transparency letter to all its agency and private partners as a matter of policy. Please feel free to provide copies of this letter to your staff and other interested parties.

Pāo'o: TPL is working with County's open space property manager, Ken Van Bergen on this project, located just south of Lapakhi, and with similar cultural and natural resources, and access to a popular local surfing spot. TPL has contracted for an appraisal and is negotiating with the landowner to place the 10.6 acre coastal property under an option. TPL has also drafted applications for matching State Legacy Land funding, and federal funding through the National Oceanic Atmospheric Administration, both of which are under consideration/pending.

Paukūkalo Coastal Wetlands: TPL is working with the Neighborhood Place of Wailuku (NPW), which currently leases 8 acres of the 64 acre parcel to provide cultural and educational programs for Maui's at risk youth. The property is adjacent to the Paukūkalo Hawaiian Homestead and the Department of Hawaiian Homelands in partnering with NPW and TPL on this project. The property contains one of the few remaining coastal wetlands in the State of Hawai'i. The wetlands serve as a buffer from sea level rise, control erosion, and protect reefs and fishing areas from sedimentation and runoff. The property also contains numerous Hawaiian cultural sites, including habitation structures, agricultural terraces, shrines, and burials. The property has been used for generations to access the beautiful Ka'ehu Bay for surfing, fishing, and recreational activities.

Fong Plantation Conservation Easement: TPL is currently working with the O'ahu Land Trust to acquire a conservation easement over approximately 108 acres of the Senator Fong's Plantation and Gardens ("Plantation") located in the ahupua'a of Ka'alaea in Ko'olaupoko, O'ahu. The Plantation contains dozens of varieties of fruit trees, nuts, plants and vines from all over the world as well as

several native plants, trees, and flowers. The property stands as a picturesque backdrop of the Ko'olau Mountains as you drive along Kamehameha Highway toward Kualoa from the town of Kāne'ohe.

The Plantation is located in the windward district of O'ahu where the community has fought for generations to preserve the rural character and lifestyle of the area. Placing a conservation easement over the property will ensure that the property (some of which is classified Urban) will remain as a tropical garden, with no additional residential or urban development.

What is the Trust for Public Land?

The Trust for Public Land is a national, non-profit land conservation organization that conserves land for people to enjoy as parks, gardens, and other natural places, ensuring livable communities for generations to come. TPL assists communities in achieving their park and open space conservation goals through conservation finance and conservation real estate services. TPL is a qualified 501(c)3 charitable, public benefit corporation.

Experience in Acquiring Land

TPL relies on its legal, real estate and finance expertise to successfully complete conservation land transactions. Since TPL's founding 35 years ago, it has, through its 46 offices, conserved over 2.3 million acres with a fair market value of approximately \$5 billion in over 3,514 separate conservation transactions across the United States.

In Hawai'i, TPL has protected over 36,000 acres in 18 projects since 1979. Since opening up our Honolulu office in Hawai'i in 1998, our activities and acquisitions have increased. Between 2003 and 2007 alone, we have helped to save over 34,009.8 acres valued at over \$58,924,000. TPL leveraged Federal and private funding for a cost of only \$18,029,632.00 or 30% of the fair market value to Hawai'i taxpayers. Recent projects include:

- conveying 25,856 acres at Wao Kele o Puna to the Office of Hawaiian Affairs (OHA), and assisting OHA in acquiring 1,875 acres at Waimea Valley, O'ahu;
- conveying 1,129 acres to the State and City and County of Honolulu at Pūpūkea-Paumalū;
- conveying 3,716 acres at Moanalua Valley to the State's Forest Reserve;
- creating the County of Hawai'i's largest public park by purchasing 225 acres of coastal area at Honu'apo;
- enabling community ownership of 890 acres at Kahau'alea (Queen's Bath); and

- adding 238 acres to the National Historic Park at Pu'uhonua o Hōnaunau, South Kona.

I am enclosing copies of TPL's most recent annual report, its national magazine, *Land & People*, its local newsletter, and a list of Landmark Projects in Hawai'i to give you a sense of the range and diversity of TPL's work and the breadth of its donor base.

How TPL Works

TPL works in the marketplace, acting quickly and independently to acquire land in its own name from willing landowners for conservation. TPL acts as a principal in these transactions and not as an agent of the landowner or of any public agency. TPL seeks to have the landowner pay as many of the pre-acquisition costs as possible, either directly or through a tax-deductible contribution to TPL.

TPL's position as a principal also clearly puts it at-risk. During the course of negotiations and pre-acquisition work, TPL incurs significant costs. These costs are substantially increased if TPL acquires the property and holds it well in advance of the public agency's acquisition from TPL. If a project fails, these costs must be absorbed by the organization.

TPL has experience working with landowners to satisfy their particular needs including those related to tax, timing, or estate planning issues. It is TPL's policy to preserve the confidentiality of its dealings with landowners, which can often mean the difference between success and failure in an acquisition.

As a principal with access to its own capital, TPL can sometimes offer landowners much shorter closing timetables than might be possible with public agencies which must, of necessity, deal with public board and council approvals and long lead-time financing requirements.

TPL has assisted many agencies at the local, state and federal level in nearly every state in the nation. TPL tackles complicated transactions that public agencies may not have the staff or resources to do themselves. It offers a professional and streamlined approach and brings extra hands and minds to assist often over-extended government staff.

It is TPL's intention that the property it purchases be preserved and used eventually for public open space purposes, agriculture, heritage lands and to maintain ecological sustainability. TPL targets its work to those properties identified by agencies as priorities for protection, and it is entirely up to a public agency as to whether or not it wants to acquire property from TPL.

Typically, TPL secures a property with a purchase option agreement. During the option period, on average 6 to 12 months, TPL performs, at significant cost, the due diligence associated with the purchase, such as obtaining an appraisal, title review, environmental investigations, and surveys. TPL understands the need to meet the requirements of fund programs and to coordinate its due diligence with public agency staff to ensure that the legal and physical condition of the property is acceptable to the ultimate owner and property manager. If the public agency has decided to acquire the property, the land is typically sold by TPL at its purchase price, which cannot exceed the fair market value as established by an appraisal.

As described in the attached TPL Appraisal Policy, TPL will work to ensure that this appraisal report is prepared in accordance with the highest professional standards and your agency's requirements, and we will provide you with whatever additional assistance we can for your review of this report. Please let me know if the State has its own appraisal rules or procedures that need to be followed. Otherwise, TPL will use its own national guidelines in engaging an MAI or other qualified appraiser acceptable to your agency.

Once the due diligence has been completed, the acquisition funding has been secured, and an agency has agreed to purchase the property, TPL normally exercises its option, buys the property from the landowner and sells it to the public agency. Because every transaction brings its own opportunities, challenges, and quirks, a project can, in some instances, take up to two years or more to complete from the date of the initial introduction to the landowner to the conveyance of the property to the public agency or other conservation entity.

What does TPL Charge for its Services?

TPL assumes the risks and liabilities of land ownership, as well as the costs associated with buying, owning and selling land. TPL believes that public agencies assume enough burdens in just paying for the land. TPL's business philosophy is to charge the government only for the land, and to obtain our operation support from charitable donations from individuals, landowners with whom we work, foundations, and other philanthropic sources. This arrangement allows TPL to meet its financial needs while assuring public agencies that they are paying no more than a property is worth. In keeping with this philosophy, we will be seeking a donation from the landowner on the projects described above (just as we seek donations from a many individuals and supporters from the community). [Please see the attachment for further information on TPL's Public Benefits Policy.]

A public agency is under no financial obligation to TPL until a specific purchase agreement has been entered into with TPL. At that point, the agency is buying the land from the TPL using dollars that have been identified by the agency and which TPL may have assisted in securing.

Conclusion

I hope this letter helps to clarify how the Trust for Public Land works to conserve land for public use and enjoyment. Please do not hesitate to contact me if you have any questions. I would be more than happy to meet with you and any of your representatives to answer any further questions that you may have about the Trust for Public Land. We look forward to working with you on this important conservation project.

Sincerely,
The Trust for Public Land

A handwritten signature in dark ink, appearing to read "Lea Hong", with a long horizontal flourish extending to the right.

Lea Hong
Hawaiian Islands Program Director

Attachments: TPL Appraisal Policy
 TPL Public Benefits Policy

Enc. TPL Annual Report
 Land and People
 Hawai'i Newsletter & List of Projects

cc. Legacy Land Conservation Commission
 Board of Land and Natural Resources

TPL Appraisal Policy

The appraisal is a key element in any Trust for Public Land (TPL, www.tpl.org) assisted conservation transaction. An appraisal sets the property value for public agencies, many of which are legally required to offer fair market value for property, and an appraisal assures that TPL will not be overpaying for a property, and thus conferring a private benefit on a landowner.

It is in TPL's, the acquiring agency's and the public's best interests that appraisals be performed by qualified appraisers, in conformance with appropriate standards and methodologies, and based upon the best data suggesting value, with rigorous review of the final results.

TPL's policy is to support a public agency appraisal process that is independent, fair and has integrity. TPL believes it is important to assure the public, and the public agencies to which we transfer lands, that they are acquiring land from TPL for a fair price.

To implement this policy, TPL will:

- rigorously follow each agency's appraisal rules and procedures;
- hire only the most accomplished appraisers;
- instruct appraisers to conform to the standards identified in the *Uniform Standards of Professional Appraisal Practice*, and where applicable, the *Uniform Appraisal Standards for Federal Land Acquisitions*;
- provide to the Agency, upon its request, any written information in our possession that is relevant to the value of the subject property, unless TPL is prohibited from releasing this information by a confidentiality agreement; and
- conform to the highest ethical standards.

Trust for Public Land Public Benefits Policy

The Trust for Public Land (TPL, www.tpl.org) is a national nonprofit organization that conserves land for people to enjoy as parks, community gardens, historic sites, rural lands, and other natural places. Protecting the places people care about—from inner city to wilderness—is at the heart of TPL's work.

TPL's work depends on the generous support of donors and volunteers who share our mission of conserving land for people. *The Wall Street Journal's SmartMoney* magazine, *Money*, *Forbes*, and *The Chronicle of Philanthropy* have all rated TPL among the most efficient charities in the United States for keeping fund-raising and operating costs low while meeting mission goals.

TPL is a recognized 501 (c)(3) public charity and as such, donations to TPL are tax deductible. TPL is not a membership organization and receives no dues. Instead, TPL receives donations and support from corporations, foundations and individuals – including landowners. We ask landowners to contribute to TPL in virtually every transaction, and because they well understand our mission, skills and dedication, we usually are successful in receiving their support.

All donations to TPL are plowed back into our work to conserve land for people. Our donors voluntarily support TPL because of their interest in the land we protect, and because of our "Land and People" mission.

This support allows TPL to risk its own funds to protect threatened lands for the public, to pay for the considerable project costs that we incur, and to generally support the organization and our mission.

The public, and public agencies in particular, benefit from TPL's Public Benefits Policy in several ways.

Save cherished lands. Because we are independently funded, we can take financial risks to protect extraordinary, and often threatened, properties - risks that public agencies are appropriately reluctant to take. As an experienced organization with a thirty-year track record of success, TPL has protected over 2 million acres of land valued at \$ 4 billion.

Allow limited public funds to go further. Our goal is to create savings for the public by conveying land to public agencies for less than fair market value, the price that many agencies are required to offer. Since 1972, TPL has saved the public \$ 569 million in these land acquisition costs alone.

TPL typically saves agencies project costs. We save agencies hundreds of thousands of dollars each year in appraisal, survey, staff, option consideration and other project costs by absorbing them ourselves. Thanks to our donors, we are able to pay for costs that otherwise would be borne by the government agency, and ultimately, by the taxpayer.